

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

## HOUSE ENROLLED ACT No. 1109

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AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 3-7-32-4, AS AMENDED BY P.L.164-2006, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. A voter may not submit a registration application by fax or an electronic transmission except: ~~as provided in:~~

- (1) ~~IC 3-11-4 concerning a voter who is~~ an absent uniformed services voter or overseas voter submitting a registration application on the **standard combined absentee registration form and absentee ballot request** approved under 42 U.S.C. 1973ff(b); ~~or~~
- (2) **as provided in IC 3-7-26.3; or**
- (3) **as provided in IC 3-7-26.7.**

SECTION 2. IC 3-7-36-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) This section does not apply to a voter who files a combined absentee registration form and absentee ballot request.

(b) When a ~~circuit court clerk or board of county voter~~ registration office receives an application for ~~absentee~~ registration ~~from an absent uniformed services voter or an overseas voter~~, the ~~clerk or board office~~ shall promptly mail or deliver to the applicant the affidavit prescribed by this title for the registration of ~~an absentee a voter. by absentee process.~~ **The county voter registration office shall transmit**

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the voter registration application to the applicant by electronic mail or fax if:

- (1) requested by the applicant; and
- (2) the applicant provides an electronic mail address or a fax number that permits the county voter registration office to send an application not later than the end of the first business day after the county voter registration office receives the communication from the voter.

If the electronic mail address or the fax number provided by the voter does not permit the county voter registration office to send the voter an application not later than the end of the first business day after the county voter registration office receives the communication, the county voter registration office shall send the application to the voter by United States mail.

(c) When the properly executed and certified affidavit is returned to the ~~clerk or board~~, voter registration office and approved under this article, the applicant becomes a registered voter in the precinct of residence.

SECTION 3. IC 3-7-36-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) **This section does not apply to a voter who files a combined absentee registration form and absentee ballot request.**

(b) When a board of registration receives an application for absentee registration under section 5 of this chapter **and a request for an absentee ballot application**, the board shall ~~also record the name, address, and other pertinent information on a suitable record form and then promptly mail or deliver the applicant's affidavit or form request~~ to the circuit court clerk for the ~~use of the clerk in mailing applications of an application for an absentee ballots:~~ **ballot.**

SECTION 4. IC 3-7-36-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) If the election division receives an ~~affidavit or a form for absentee application for~~ registration **from an absent uniformed services voter or an overseas voter** under this chapter, the election division shall promptly forward the ~~affidavit or form application~~ to the county voter registration office of the county where the applicant resides according to the address on the ~~affidavit or form:~~ **application.**

(b) If the application is ~~both an a combined~~ application for voter registration and an application for an absentee ballot, the election division shall promptly forward the application to the county voter registration office.

SECTION 5. IC 3-7-36-8 IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2010]: Sec. 8. (a) This section does not apply to a combined absentee registration and request for an absentee ballot.

(b) When a circuit court clerk receives ~~an affidavit or a form request for an absentee registration;~~ **ballot application**, the clerk shall promptly mail the absentee ballot ~~applications as soon as the applications are available;~~ **application (or transmit the application to the voter by electronic mail or fax if requested by the voter).**

SECTION 6. IC 3-7-36-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) If ~~an affidavit or a form is mailed~~ **a voter registration application is delivered** to the circuit court clerk in a county where there is a board of registration, the clerk shall promptly ~~mail or deliver to the board the affidavit or form~~ **application** requesting registration.

(b) If the application is ~~both an a combined~~ application for registration and an application for an absentee ballot, the clerk shall record the name, address, and other necessary information ~~on a suitable record for the use of the clerk's office~~ **county election board or board of elections and registration** in mailing an application for an absentee ballot.

(c) The requested application for an absentee ballot shall be mailed as soon as the applications are available. ~~After making the required record,~~ **or transmitted to the applicant by electronic mail or fax if:**

- (1) requested by the applicant; and**
- (2) the applicant provides an electronic mail address or a fax number that permits the board to send an application not later than the end of the first business day after the board receives the communication from the voter.**

**If the electronic mail address or fax number provided by the applicant does not permit the board to send the application not later than the end of the first business day after the board receives the communication, the board shall send the application by United States mail.**

(d) The clerk shall promptly ~~mail or deliver the~~ **combined** application to the board. The board shall promptly mail the ~~absentee registration affidavits~~ **application** to the applicant at the address appearing on the ~~affidavit or form~~ **application** submitted by the applicant **or transmit the application to the applicant by electronic mail or fax if:**

- (1) requested by the applicant; and**
- (2) the applicant provides an electronic mail address or a fax number that permits the board to send an application not later than the end of the first business day after the board**

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receives the communication from the voter.

If the electronic mail address or fax number provided by the applicant does not permit the board to send the application not later than the end of the first business day after the board receives the communication, the board shall send the application by United States mail.

SECTION 7. IC 3-8-8-3, AS ADDED BY P.L.230-2005, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) An individual who challenges the qualification of a candidate for election to an office must be a registered voter of the election district the candidate seeks to represent.

(b) A challenge under this chapter must be filed with the election division not later than ~~forty (40)~~ **noon seventy-four (74)** days before the date of the general election at which a candidate to the office is to be elected.

(c) The challenger must file a sworn statement with the election division:

- (1) questioning the qualification of a candidate to seek the office; and
- (2) setting forth the facts known to the voter concerning this question.

SECTION 8. IC 3-8-8-7, AS ADDED BY P.L.230-2005, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Regardless of the status of a challenge before the commission or the court of appeals, at noon ~~thirty (30)~~ **sixty (60)** days before the general election the following apply:

- (1) The challenge is terminated.
- (2) The name of the challenged candidate may not be removed from the ballot.
- (3) The name of another individual may not replace the name of the challenged candidate on the ballot.
- (4) Any votes cast for the challenged candidate shall be canvassed, counted, and reported under the name of the challenged candidate.

(b) All of the following apply if a candidate attempts to withdraw as a candidate after noon ~~thirty (30)~~ **sixty (60)** days before the general election:

- (1) The name of the candidate may not be removed from the ballot.
- (2) The name of another individual may not replace the name of the candidate on the ballot.
- (3) Any votes cast for the candidate shall be canvassed, counted,

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and reported under the name of the candidate.

SECTION 9. IC 3-11-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A voter who is otherwise qualified to vote in person is entitled to vote by absentee ballot. Except as otherwise provided in this article, a voter voting by absentee ballot must vote in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2) or at a satellite office established under IC 3-11-10-26.3.

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section ~~12~~ and ~~13~~ **12.5** of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 10. IC 3-11-4-3, AS AMENDED BY P.L.103-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. Except as provided in section 6 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ~~ninety (90) days before election day~~ **the date the registration period resumes following a primary election under IC 3-7-13-10** nor later than the following:

- (1) Noon on election day if the voter registers to vote under IC 3-7-36-14.
- (2) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk or is an absent uniformed services voter or overseas voter who requests that the ballot be transmitted by **electronic mail or** fax under section 6(h) of this chapter.

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- (3) Noon on the day before election day if:
  - (A) the application is a mailed, transmitted by fax, or hand delivered application from a confined voter or voter caring for a confined person; and
  - (B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board.
- (4) Midnight on the eighth day before election day if the application:
  - (A) is a mailed application; or
  - (B) was transmitted by fax;
 from other voters.

SECTION 11. IC 3-11-4-4, AS AMENDED BY P.L.120-2009, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Applications may be made on application forms approved by the commission by any of the following means:

- (1) In person.
- (2) By fax transmission.
- (3) By mail **(including United States mail or bonded courier)**.
- (4) By electronic mail with a scanned image of the application and signature of the applicant, if transmitted by an **absent uniformed services voter or an** overseas voter acting under section 6 of this chapter.

(b) Application forms shall:

- (1) be furnished to a central committee of the county at the request of the central committee;
- (2) be:
  - (A) mailed;
  - (B) transmitted by fax; or
  - (C) transmitted by electronic mail with a scanned image of the application;
 upon request, to a voter applying by mail, by telephone, by electronic mail, or by fax; and
- (3) be delivered to a voter in person who applies at the circuit court clerk's office.

(c) ~~The county election board shall:~~

- ~~(1) accept; and~~
- ~~(2) transmit;~~

applications for absentee ballots under subsection (a) by fax or electronic mail, if the county election board has access to a fax machine or electronic mail. A county election board shall accept an application for an absentee ballot transmitted by fax even though the application is delivered to the county election board by a person other than the

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person submitting the application.

(d) When an application is received under subsection (a)(4), the circuit court clerk's office (or, in a county subject to IC 3-6-5.2 or IC 3-6-5.4, the office of the board of elections and registration) shall send an ~~automatic~~ electronic mail receipt acknowledging receipt of the voter's application.

SECTION 12. IC 3-11-4-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5.5. In accordance with 42 U.S.C. 1973ff-1(b), **but subject to section 5.7 of this chapter**, the election division is designated as the single office in Indiana responsible for providing information regarding voter registration procedures under IC 3-7 and absentee ballot procedures under this chapter to be used by absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in Indiana.

SECTION 13. IC 3-11-4-5.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5.7. (a) As used in this section, "MOVE" refers to the Military and Overseas Voter Empowerment Act (Sections 577 through 589 of the National Defense Authorization Act for Fiscal Year 2010).**

**(b) Except as expressly provided by law, the state delegates its responsibilities to carry out the requirements of MOVE to each county election board (or board of elections and registration established under IC 3-6-5.2 or IC 3-6-5.4).**

**(c) To implement 42 U.S.C. 1973ff-1, electronic mail, fax, and web publication are designated as means of communication for an absent uniformed services voter or an overseas voter to request a voter registration application and an absentee ballot application from the election division, a county election board, or a county voter registration office.**

**(d) An office described in subsection (c) that receives an electronic mail or fax from a voter shall provide an absentee ballot application or a voter registration application by electronic mail or fax to the voter if:**

- (1) requested by the voter; and**
- (2) the voter provides an electronic mail address or a fax number that permits the office to send an application not later than the end of the first business day after the office receives the communication from the voter.**

**If the electronic mail address or the fax number provided by the voter does not permit the office to send the voter an application not**

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later than the end of the first business day after the office receives the communication, the office shall send the application to the voter by United States mail.

(e) As required by 42 U.S.C. 1973ff-1, to the extent practicable and permitted under state law (including IC 3-7 and IC 5-14-3), an office described in subsection (c) shall ensure that the procedures used to transmit an absentee ballot application or a voter registration application to an absent uniformed services voter or overseas voter protect the security and integrity of the application request processes, and that the privacy of the identity and other personal data of the voter who requests or is sent an application under subsection (d) is protected throughout the process of making the request or being sent the application.

(f) As required under 42 U.S.C. 1973ff-1, an office described in subsection (c) shall include information regarding the use of electronic mail, fax, and web publication with all informational and instructional materials that are sent with an absentee ballot application or an absentee ballot to an absent uniformed services voter or overseas voter.

(g) To implement Section 580 of MOVE, and in accordance with IC 3-7-26.3-3, the secretary of state, with the approval of the election division, shall develop a free access system that permits an absent uniformed services voter or overseas voter to determine whether the voter's absentee ballot has been received by the appropriate county election board (or board of elections and registration), regardless of the manner in which the absentee ballot was transmitted by the voter to the board. To the extent permitted by IC 3-7 and IC 5-14-3, the system must contain reasonable procedures to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used on the system.

SECTION 14. IC 3-11-4-6, AS AMENDED BY P.L.198-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) This section applies, notwithstanding any other provision of this title, to absentee ballot applications for the following:

- (1) An absent uniformed services voter.
- (2) An address confidentiality program participant (as defined in IC 5-26.5-1-6).
- (3) An overseas voter.

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section after

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November 20 preceding the election to which the application applies. Except as provided in subsection (c), the person may apply for an absentee ballot at any time after the applications are made available.

(c) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing **either of the following:**

(1) A ~~standard~~ **combined absentee registration form and absentee ballot request** approved under ~~42 U.S.C. 1973ff(b)~~ **42 U.S.C. 1973ff(b)(2).**

(2) **A form prescribed under IC 3-5-4-8 that identifies the applicant as an absent uniformed services voter or an overseas voter. A form prescribed under this subdivision must permit the applicant to designate whether the applicant wishes to receive the absentee ballot by electronic mail, fax, or United States mail.**

(d) If the county election board receives an absentee ballot application from a person described by ~~this section;~~ **subsection (c)**, the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under ~~sections 13 and~~ **section 15** of this chapter, **unless the person has indicated under subsection (c) that the person wishes to receive the absentee ballot by electronic mail or fax.**

(e) ~~In accordance with 42 U.S.C. 1973ff-3;~~ Whenever a voter files an application for an absentee ballot and indicates on the application that the voter:

- (1) is an absent uniformed services voter or an overseas voter; and
- (2) does not expect to be in the county ~~on the next general election day~~ following the date the application is filed and expects to remain absent from the county until at least the date of the ~~second general election~~ **during the twelve (12) months** following the date the application is filed;

the application is an adequate application for an absentee ballot for both subsequent general elections and any municipal or special election conducted during that period, **unless an absentee ballot mailed to the voter at the address set forth in the application is returned to the county election board during that period as undeliverable.** The circuit court clerk and county election board shall process this application and send general election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

(f) Whenever a voter described in subsection (a)(2) files an

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application for a primary election absentee ballot and indicates on the application that the voter is an address confidentiality program participant, the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and send general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

(g) The name, address, telephone number, and any other identifying information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:

- (1) To a law enforcement agency, upon request.
- (2) As directed by a court order.

(h) The county election board shall by fax or electronic mail ~~when authorized under this section~~ transmit an absentee ballot to and receive an absentee ballot from an absent uniformed services voter or an overseas voter **by electronic mail or fax** at the request of the voter **indicated in the application filed under this section**. If the voter wants to submit absentee ballots by fax or electronic mail, the voter must separately sign and date a statement ~~on the cover of submitted~~ **with the electronic mail or** the fax transmission that states substantively the following: "I understand that by faxing or e-mailing my voted ballot I am voluntarily waiving my right to a secret ballot."

(i) The county election board shall send confirmation to a voter described in subsection (h) that the voter's absentee ballot has been received as follows:

- (1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.
- (2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the electronic mail address provided by the voter.
- (3) If:
  - (A) the voter does not provide a fax number or an electronic

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mail address; or

(B) the number or address provided does not permit the board to send the confirmation not later than the end of the first business day after the board receives the voter's absentee ballot;

the county election board shall send the confirmation by United States mail.

The county election board shall send the confirmation required by this subsection not later than the end of the first business day after the county election board receives the voter's absentee ballot.

(j) A county election board may transmit an absentee ballot to an absent uniformed services voter or an overseas voter by electronic mail under a program authorized and administered by the Federal Voting Assistance Program of the United States Department of Defense **or directly to the voter at the voter's electronic mail address, if requested to do so by the voter.** A voter described by this section may transmit the voted absentee ballot to a county election board by electronic mail in accordance with the procedures established under this program. An electronic mail message transmitting a voted absentee ballot under this subsection must include an optically scanned image of the voter's signature on the statement required under subsection (h).

SECTION 15. IC 3-11-4-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2010]: **Sec. 6.1. (a) This section applies to a voter who:**

**(1) filed an application for an absentee ballot under section 6(e) of this chapter not later than June 30, 2010; and**

**(2) indicated on the application that the voter:**

**(A) was an absent uniformed services voter or overseas voter;**

**(B) did not expect to be in the county on the next general election day following the date the application is filed; and**

**(C) expects to remain absent from the county until at least the date of the second general election following the date the application is filed.**

**(b) Notwithstanding section 6 of this chapter, the application is an adequate application for an absentee ballot for both subsequent general elections and any municipal or special election conducted during the period described in subsection (a) unless an absentee ballot mailed to the voter at the address set forth in the application has been or is returned to the county election board during that period as undeliverable.**

**(c) This section expires June 30, 2012.**

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SECTION 16. IC 3-11-4-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 12.5. (a) This section applies to an absent uniformed services voter or overseas voter.**

**(b) If a voter makes a timely application for and does not receive an absentee ballot from a county election board, the voter may use a federal write-in absentee ballot in the form prescribed by the Federal Voting Assistance Program of the United States Department of Defense and in accordance with the requirements set forth in 42 U.S.C. 1973ff-2 to cast a vote for any of the following:**

- (1) Any candidate for nomination at a primary election.**
- (2) Any candidate, political party, or public question on a general election, municipal election, or special election ballot.**

SECTION 17. IC 3-11-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) All absentee ballots other than those specified in section ~~12.5~~ of this chapter shall be prepared and printed under the direction of each county election board. After completing the estimate required by section 10 of this chapter and receiving all certifications from the election division required under IC 3-8 or IC 3-10, the county election board shall immediately proceed to prepare and have printed the ballots.

(b) Except as provided in subsection (c), ballots prepared by the county election board under this section must provide space for the voter to cast a write-in ballot.

(c) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 18. IC 3-11-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. ~~(a) Except as provided in subsection (b);~~ The absentee ballots that are prepared and printed under the direction of a county election board shall be delivered to the circuit court clerk (or the board acting under IC 3-6-5.2) at least

- ~~(1) forty-five (45)~~ **(50)** days before a general, primary, **special**, or municipal election.
- ~~(2) thirty-two (32)~~ days before a special election.

~~(b) This subsection applies to the printing of absentee ballots for a general election in which the names of nominees for President and Vice President of the United States are to be printed on the ballot. The absentee ballots that are prepared and printed under the direction of a county election board shall be delivered to the circuit court clerk (or the~~

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board acting under IC 3-6-5.2) not later than thirty-eight (38) days before the general election:

SECTION 19. IC 3-11-4-18, AS AMENDED BY P.L.164-2006, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) If a voter satisfies any of the qualifications described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot by mail, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

(b) If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted as an absentee ballot, and that, if the documentation required under IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the ballot will be processed as a provisional ballot. The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) Except as provided in section 18.5 of this chapter, the ballot shall be mailed:

- (1) on the day of the receipt of the voter's application; or
- (2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

(e) Except as provided in section 18.5 of this chapter, the ballot described in subsection (d)

- (1) must be mailed:
  - (A) on the day of the receipt of the voter's application; or
  - (B) not more than five (5) days after the latest date for delivery of the ballots under section 13(b) of this chapter applicable to that election;

whichever is later; and

- (2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

(f) (d) As required by 42 U.S.C. 15481, an election board shall establish a voter education program (specific to a paper ballot or

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optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple votes for a single office.

~~(g)~~ (e) As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 20. IC 3-11-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. This chapter applies to:

- (1) each precinct; and ~~to~~
- (2) absentee voting, **including the casting of an absentee ballot before an absentee voter board:**
  - (A) **in the office of the:**
    - (i) **circuit court clerk; or**
    - (ii) **board of elections and registration in a county subject to IC 3-6-5.2 or IC 3-6-5.4; or**
  - (B) **at a satellite office established under IC 3-11-10-26.3.**

SECTION 21. IC 3-11-9-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) **This section applies only to a voter with a disability.**

(b) **This section does not apply to an absentee ballot cast by a voter before an absentee voter board visiting the voter's place of confinement or the voter's residence.**

(c) **A voter is entitled to vote on a direct record electronic voting system that complies with IC 3-11-8.**

SECTION 22. IC 3-11-10-12, AS AMENDED BY P.L.164-2006, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) **Except as provided in section 12.5 of this chapter,** each county election board shall have all absentee ballots delivered to the precinct election boards at their respective polls on election day.

(b) The absentee ballots shall be delivered during the hours that the polls are open and in sufficient time to enable the precinct election boards to vote the ballots during the time the polls are open.

(c) Along with the absentee ballots delivered to the precinct election boards under subsection (a), each county election board shall provide a list certified by the circuit court clerk. This list must state the name of each voter subject to IC 3-7-33-4.5 who:

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- (1) filed the documentation required by IC 3-7-33-4.5 with the county voter registration office after the printing of the certified list under IC 3-7-29 or the poll list under IC 3-11-3; and
- (2) as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with this title.

(d) If the county election board is notified not later than 3 p.m. on election day by the county voter registration office that a voter subject to IC 3-7-33-4.5 and not identified in the list certified under subsection (c) has filed documentation with the office that complies with IC 3-7-33-4.5, the county election board shall transmit a supplemental certified list to the appropriate precinct election board. If the board determines that the supplemental list may not be received before the closing of the polls, the board shall:

- (1) attempt to contact the precinct election board to inform the board regarding the content of the supplemental list; and
- (2) file a copy of the supplemental list for that precinct as part of the permanent records of the board.

(e) This subsection applies to a special write-in absentee ballot described in:

- (1) 42 U.S.C. 1973ff for federal offices; and
- (2) IC 3-11-4-12(a) for state offices.

If the county election board receives both a special write-in absentee ballot and the regular absentee ballot described by IC 3-11-4-12 from the same voter, the county election board shall reject the special write-in ballot and deliver only the regular absentee ballot to the precinct election board.

SECTION 23. IC 3-11-10-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 12.5. (a) This section applies to absentee ballots cast:**

- (1) under section 26 or 26.3 of this chapter; and**
- (2) on a direct record electronic voting system.**

**(b) Notwithstanding section 12 of this chapter, a county election board is not required to deliver absentee ballots described in subsection (a) to the precincts for counting. However, the county election board shall deliver to each precinct a list of the names of voters who have cast absentee ballots described in subsection (a). The county election board shall deliver this list at the same time the county election board delivers other absentee ballots to the precinct. Absentee ballots described in subsection (a) may be challenged using the same procedure that applies to other absentee ballots. The judges shall mark the poll list to indicate that each**

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voter on the list sent by the county election board has voted by absentee ballot. If a voter has already voted at the precinct or if the absentee ballot is challenged, the judges shall note that fact on the list sent by the county election board and return the list to the county election board with the precinct's other election materials. The county election board shall delete the absentee votes of a voter described in subsection (a) whose name has been noted by the judges as having voted at the precinct. The county election board shall count the absentee ballots described in subsection (a) using the procedures in IC 3-11.5 for counting absentee ballots at a central location, including the procedures for challenging absentee ballots and eliminating the absentee ballots of individuals voting in person at the polls, to assure that the ballots cast on the direct record electronic voting system may be counted.

(c) A county election board acting under this section:

- (1) may count all absentee ballots described in subsection (a) at a central location; and
- (2) shall adjust the vote totals for each precinct based on the count of absentee ballots under subdivision (1).

(d) This section does not require a county election board to count absentee ballots not described in subsection (a) at a central location under this section or IC 3-11.5.

SECTION 24. IC 3-11-10-26, AS AMENDED BY P.L.164-2006, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

- (1) in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2); or
- (2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must:

- (1) sign an application on the form prescribed by the commission under IC 3-11-4-5.1; and
- (2) provide proof of identification;

before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than twenty-nine (29) days before

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the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(f) Notwithstanding subsection (e), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

(g) As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(h) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

(i) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

the voter shall be permitted to cast an absentee ballot and the voter's absentee ballot shall be treated as a provisional ballot.

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**(j) A voter casting an absentee ballot under this section is entitled to cast the voter's ballot in accordance with IC 3-11-9.**

SECTION 25. IC 3-11-10-26.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 26.3. (a) A county election board may adopt a resolution to authorize the circuit court clerk to establish satellite offices in the county where voters may cast absentee ballots before an absentee voter board.

(b) To be adopted under this section, a resolution must be adopted by the unanimous vote of the board's entire membership.

(c) A resolution adopted under this section must do the following:

- (1) State the locations of the satellite offices.
- (2) State the hours at which absentee voting may occur at the satellite offices.

(d) The resolution may contain other provisions the board considers useful.

(e) If a resolution is adopted under this section, the procedure for casting an absentee ballot at a satellite office must, except as provided in this section, be substantially the same as the procedure for casting an absentee ballot in the office of the circuit court clerk.

**(f) A voter casting an absentee ballot under this section is entitled to cast the voter's ballot in accordance with IC 3-11-9.**

**(g) A satellite office established by a circuit court clerk under this section must comply with the polling place accessibility requirements of IC 3-11-8.**

SECTION 26. IC 3-11.5-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. To the extent that they are in conflict with this article, the following statutes do not apply to a county that has adopted a resolution described by section 1 of this chapter:

- (1) IC 3-11-4-22.
- (2) IC 3-11-10-1.5.
- (3) IC 3-11-10-3.
- (4) IC 3-11-10-5.
- (5) IC 3-11-10-6.
- (6) IC 3-11-10-7.
- (7) IC 3-11-10-8.
- (8) IC 3-11-10-9.
- (9) IC 3-11-10-11.
- (10) IC 3-11-10-12.
- (11) IC 3-11-10-12.5.**
- ~~(11)~~ **(12)** IC 3-11-10-13.
- ~~(12)~~ **(13)** IC 3-11-10-14.

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- ~~(13)~~ (14) IC 3-11-10-15.
- ~~(14)~~ (15) IC 3-11-10-16.
- ~~(15)~~ (16) IC 3-11-10-17.
- ~~(16)~~ (17) IC 3-11-10-18.
- ~~(17)~~ (18) IC 3-11-10-20.
- ~~(18)~~ (19) IC 3-11-10-21.
- ~~(19)~~ (20) IC 3-11-10-22.
- ~~(20)~~ (21) IC 3-11-10-23.
- ~~(21)~~ (22) IC 3-11-10-31.
- ~~(22)~~ (23) IC 3-11-10-32.
- ~~(23)~~ (24) IC 3-11-10-33.
- ~~(24)~~ (25) IC 3-11-10-34.
- ~~(25)~~ (26) IC 3-11-10-35.
- ~~(26)~~ (27) IC 3-11-10-36.
- ~~(27)~~ (28) IC 3-11-10-37.
- ~~(28)~~ (29) IC 3-12-2.
- ~~(29)~~ (30) IC 3-12-3-12.

SECTION 27. IC 3-11.5-5-14, AS AMENDED BY P.L.198-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) This section applies to the counting of **federal** write-in absentee ballots for

- (1) a federal office received under 42 U.S.C. 1973ff and
- (2) a federal office; state office; or public question under IC 3-11-4-12(a);

**described in IC 3-11-4-12.5.**

(b) If a voter writes an abbreviation, a misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President and writes in the name of a candidate or political party that has not certified a list of electors under IC 3-10-4-5, the vote for President or Vice President is void. The remaining votes on the ballot may be counted.

(d) IC 3-12-1-7 applies to a ballot subject to this section.

(e) A ballot subject to this section may not be counted if:

- (1) the ballot was submitted from within the United States;
- (2) the voter's application for a regular absentee ballot was received by the circuit court clerk or board of registration less than thirty (30) days before the election;
- (3) the voter's completed regular state absentee ballot was received by the circuit court clerk or board of registration by the deadline for receiving absentee ballots under IC 3-11.5-4-7; or

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(4) the ballot subject to this section was not received by the circuit court clerk or board of registration by the deadline for receiving absentee ballots under IC 3-11.5-4-7.

SECTION 28. IC 3-12-1-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 18. (a) This section applies to a federal write-in absentee ballot cast in a primary election as provided in IC 3-11-4-12.5(b)(1) by an absent uniformed services voter or overseas voter.**

**(b) If a voter does any of the following, the voter's vote is void:**

**(1) The voter votes for more than one (1) candidate, and the candidates are not on the official primary ballot of the same political party.**

**(2) The voter votes for a candidate who is not on the official primary ballot of any political party.**

**(3) The voter votes for a candidate who is on the official primary ballot of a political party, but the voter does not indicate the office for which the candidate seeks to be nominated.**

**(c) If the voter votes for a political party, but the voter does not vote for any individual candidates who are on that political party's official primary ballot, the voter's vote is void.**

SECTION 29. IC 3-12-1-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 19. (a) This section applies to a federal write-in absentee ballot cast in a general election, municipal election, or special election as provided in IC 3-11-4-12.5(b)(2) by an absent uniformed services voter or overseas voter.**

**(b) If a voter designates a candidate by writing in the name of a political party on the ballot, the voter's vote shall be counted for all candidates of that political party on the ballot.**

**(c) If a voter writes an abbreviation, misspelling, or other minor variation instead of the correct name of a candidate or a political party, the voter's vote shall be counted if the intent of the voter can be determined.**

SECTION 30. IC 3-12-2-7.5, AS AMENDED BY P.L.198-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 7.5. (a) This section applies to the counting of federal write-in absentee ballots for**

**(1) a federal office received under 42 U.S.C. 1973ff and**

**(2) a federal office, state office, or public question under IC 3-11-4-12.**

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**described in IC 3-11-4-12.5.**

(b) If a voter writes an abbreviation, misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President of the United States and writes in the name of a candidate or political party that has not:

- (1) certified a list of electors under IC 3-10-4-5; or
- (2) included a list of electors on the declaration for candidacy filed by a write-in candidate under IC 3-8-2-2.5;

the vote for President or Vice President is void. The remaining votes on the ballot may be counted.

(d) IC 3-12-1-7 applies to a ballot subject to this section.

(e) A ballot subject to this section may not be counted if:

- (1) the ballot was submitted:
  - (A) by an overseas voter who is not an absent uniformed services voter; and
  - (B) from within the United States;
- (2) the voter's completed regular state absentee ballot was received by the county election board by the deadline for receiving absentee ballots under IC 3-11-10-11; or
- (3) the ballot subject to this section was not received by the county election board by the deadline for receiving absentee ballots under IC 3-11-10-11.

SECTION 31. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 3-11-4-12; IC 3-11-4-13.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

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